

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
PACIFIC LIGHTNET, INC.)
For Waiver of the Number)
Utilization Threshold Requirements)
In the Molokai and Lanai Rate)
Centers.)

DOCKET NO. 2007-0227

DECISION AND ORDER NO. 23814

Filed Nov. 8, 2007
At 12 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

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STATE OF HAWAII

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

Karen Higashi

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Docket No. 2007-0227
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DECISION AND ORDER

By this Decision and Order, the commission grants PACIFIC LIGHTNET, INC.'s ("PLNI") request for waiver of the number utilization and months-to-exhaust ("MTE") requirements in the Molokai and Lanai rate centers, and overturns the National Pooling Plan Administrator's ("Pooling Administrator") denial of PLNI's requests for a new numbering plan area-central office code ("NPA-NXX") in each of those rate centers.

I.

Background

A.

Application

PLNI is a Hawaii corporation authorized to provide intrastate telecommunications services in the State of Hawaii, pursuant to Decision and Order No. 18868, filed on August 31, 2001, in Docket No. 01-0157.

On August 6, 2007, PLNI filed requests with the Pooling Administrator¹ for a new NPA-NXX for Local Routing Number ("LRN")² purposes in the Molokai and Lanai rate centers. On August 8, 2007, the Pooling Administrator denied PLNI's requests on the ground that PLNI was unable to satisfy the requirement that it have a minimum utilization rate of 75% or have less than a six-month inventory of numbers for the requested rate centers ("Number Utilization Requirements").

A.

PLNI's Application

On August 10, 2007, PLNI filed an application requesting a waiver of the Number Utilization Requirements ("Application").³ According to PLNI, it expanded its facilities-based network in Hawaii by deploying a new switch in Honolulu to serve customers throughout the islands of Kauai, Oahu, Molokai, Lanai, Maui and Hawaii. For purposes of facilitating local

¹The Pooling Administrator and the North American Numbering Plan Administrator ("NANPA") administer the numbering resources in the United States. While the NANPA is generally responsible for central office code assignments, the Pooling Administrator focuses on the allocation and pooling of thousand-block numbers--both functions are provided by an organization named NeuStar, Inc. See In re MCImetro Access Transmission Services, Inc., Docket No. 04-0166, Decision and Order No. 21325, filed on August 27, 2004, ("Docket No. 04-0166") at 1 n.1.

²An LRN is a unique ten digit telephone number that is used for routing calls between carrier networks to the assigned switch.

³PLNI served copies of the Application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this docket pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules § 6-61-62.

number portability ("LNP") as required by the Telecommunications Act of 1996, PLNI must obtain and assign within the new switch a unique LRN, each consisting of a unique NPA-NXX for each of the rate centers in Hawaii.⁴ When applying for a new NPA-NXX, the Federal Communications Commission ("FCC") requires that a carrier show that it satisfies the Number Utilization Requirements in the relevant rate center.⁵

By Decision and Order No. 22295, filed on February 23, 2006, in Docket No. 05-0324, the commission granted PLNI's request for waiver of the Number Utilization Requirements in the Honolulu, Wailuku, Hilo and Lihue rate centers. PLNI had not requested a waiver for the Molokai and Lanai rate centers, as its forecasts had indicated that it would not have sufficient demand in those markets to commence using the numbering resources within six months, as required by the Pooling Administrator.

B.

Consumer Advocate's Statement of Position

On October 11, 2007, the Consumer Advocate filed its Statement of Position informing the commission that it does not object to approval of PLNI's request for waiver of the Number Utilization Requirements ("CA Statement of Position"). According to the Consumer Advocate, PLNI has demonstrated a need for the new NPA-NXXs to comply with the LNP requirements of the Telecommunications Act of 1996; and PLNI has exhausted all other

⁴Application at 1.

⁵Id. at 2.

available remedies. In addition, the Consumer Advocate asserts that compliance with the LNP requirements would promote competition in the State's telecommunications industry, and would thus be in the public interest. Moreover, according to the Consumer Advocate, PLNI is not attempting to abuse the waiver process or hoard numbers; and a commission waiver would be consistent with similar waivers previously granted by the commission on a case-by-case basis. Therefore, the Consumer Advocate does not oppose PLNI's request, provided that "only the 1,000 block number required for establishing the LRN for each rate center is retained, and all other numbering resources in the new NPA-NXXs are returned by [PLNI] to the Pooling Administrator."

II.

Discussion

The Federal Communications Commission has charged state commissions with the authority to affirm or overturn denials of number resources. Section 52.15(g)(4) of Title 47 of the Code of Federal Regulations states:

The NANPA shall withhold numbering resources from any U.S. carrier that fails to comply with the reporting and numbering resource application requirements established in this part. The NANPA shall not issue numbering resources to a carrier without an Operating Company Number (OCN). The NANPA must notify the carrier in writing of its decision to withhold numbering resources within ten (10) days of receiving a request for numbering resources. The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. The state commission may affirm, or may overturn, the NANPA's decision to withhold numbering resources from the carrier based on its

determination that the carrier has complied with the reporting and numbering resource application requirements herein. The state commission also may overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination that the carrier has demonstrated a verifiable need for numbering resources and has exhausted all other available remedies.

47 C.F.R. § 52.15(g)(4) (2005) (emphasis added).

Here, the commission finds that PLNI has sufficiently demonstrated that it has a verifiable need for numbering resources and that it has exhausted all other available remedies. In order for PLNI to realize the expansion of its facilities-based network in Hawaii by employing a new switch, it must obtain and assign within the new switch new NPA-NXX for these rate centers. Given the Pooling Administrator's denial of PLNI's request for numbering resources, the commission's reversal of the Pooling Administrator's decision is PLNI's only option.

Accordingly, the commission concludes that the Pooling Administrator's denial of PLNI's applications for new NPA-NXX for the Molokai and Lanai rate centers should be overturned, provided that only the 1,000 block numbers necessary in each rate center be retained, and all other numbering resources in the new NPA-NXX be returned to the Pooling Administrator.

III.

Orders

THE COMMISSION ORDERS:

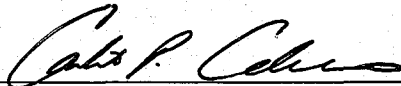
1. PLNI's request for waiver of the number utilization and MTE requirements in the Molokai and Lanai rate centers is granted.

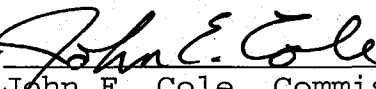
2. The Pooling Administrator's denial of PLNI's August 6, 2007 applications for a new NPA-NXX for LRN purposes in the Molokai and Lanai rate centers is overturned, provided PLNI retains only the 1,000 block numbers necessary in each rate center to establish the new LRNs.

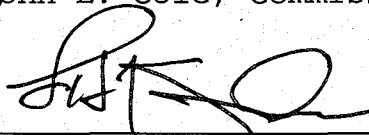
3. This docket is closed, unless otherwise ordered by the commission.

DONE at Honolulu, Hawaii NOV - 8 2007.

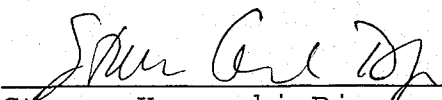
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By 
John E. Cole, Commissioner

By 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Stacey Kawasaki Djou
Commission Counsel

2007-0227.laa

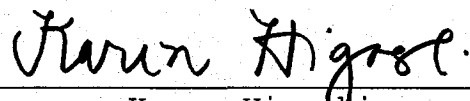
CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23814 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI
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Karen Higashi

DATED: NOV - 8 2007